IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

MFA.No. 1170 of 1999()

(AGAINST THE JUDGMENT DATED 16TH JUNE 1999 RECEIVED BY THE APPELLANT ON 19/07/1999 IN WCC.210/1998 of W.C.C.,KOZHIKODE)
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APPELLANT: OPPOSITE PARTY:

T.T.KELAPPAN,
S/O.CHATHUKUTTY KURUP,
'SAS', HOUSE, KANNAMKARA P.O.,
CHELANNUR (VIA), KOZHIKODE.

BY ADV. SRI.THOMAS ANTONY
SRI.K.M.JAMALUDHEEN

RESPONDENT:APPLICANT:

KELUKUTTY M.,
S/O.SAMI,
MARIYIL VEEDU, KANNAMKARA P.O.,
CHELANNUR VIA., KOZHIKODE.

BY ADV. SRI.K.A.SALIL NARAYANAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.F.A.NO.1170/1999

ORDER ON C.M.P.NO.3214/2000 IN M.F.A.NO.1170/1999

DISMISSED

28/05/2007 **SD/- J.B.KOSHY, JUDGE**

SD/-K.P.BALACHANDRAN, JUDGE

/TRUE COPY/

KSS

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.1170 OF 1999

Dated 28th May, 2007

JUDGMENT

Koshy,J.

Appellant and his wife are Government employees. There are about five coconut trees in their compound. The respondent, in the course of employment while climbing the trees, sustained injuries and he claimed compensation. The Commissioner awarded compensation exparte. The appellant filed a writ petition challenging the above award stating that the award was passed without issuing notice to him. This court allowed the writ petition on payment of Rs.5,000/= as cost. The cost was paid and the case was restored to file. Contention of the appellant is that the Commissioner passed a fresh award granting Rs.2,642/= with 6% interest from the date of accident. It is also contended that the respondent was a self employed person and even if he is an employee, he is a casual employee as he was not employed for the business of the appellant. The appellant is a Government employee and he has no coconut plantation. However, the amount ordered to be paid without interest was deposited before the Commissioner. Considering the definition of `workman' at the time of application, a casual employee not employed for the purpose of business is excluded. Here, he is not employed for the

business of the appellant and he is only a casual employee. In any event, Rs.5,000/= was already given to the respondent while setting aside the exparte order and now Rs.2,460/= was also deposited. On the facts of this case, the amount deposited can be disbursed to the respondent. No further amount need be deposited by the appellant.

The appeal is disposed of accordingly.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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